

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

CIVIL SERVICE COMMISSION

One Ashburton Place: Room 503
Boston, MA 02108
(617) 727-2293

Patricia Vaulting,
Appellant

v.

C-07-192

Department of Mental Health,
Respondent

Appellant's Attorney:

Pro Se
Patricia Vaulting

Respondent's Attorney:

Maria Lima- Martins
Labor Relations Specialist
60 Hodges Avenue Ext.
Taunton, MA 02780

Commissioner:

Daniel M. Henderson

DECISION

Pursuant to the provisions of G.L. c. 30, s. 49, the Appellant, Patricia Vaulting (hereinafter "Appellant" or "Vaulting") is appealing the decision of the Human Resources Division (hereinafter "HRD") denying her request for reclassification, by her employer, the Department of Mental Health (hereinafter "Department" or "DMH"), from the position of a Registered Nurse II (RN II) to the position of a Registered Nurse III (RN III). The Appellant filed a timely appeal. A hearing was held by the Civil Service Commission (hereinafter "Commission") on November 6, 2007. One tape was made of the hearing. As no notice was

received from either party, the hearing was declared private. Following the hearing, both parties submitted proposed decisions.

FINDING OF FACT:

Based on the documents entered into evidence, (Joint Exhibits 1- 13) and the testimony of:

For the Appointing Authority:

- Patricia Scully, Employment Service Manager for at Department of Mental Health's Southeast Area;
- Richard Jobin, Site Director for the Brockton Multi Service Center;

For the Appellant:

- Patricia Vaulting, Appellant;

I make the following findings of fact:

1. The Appellant is employed as a Registered Nurse II (RN II) at Department of Mental Health's (DMH) Brockton Multi Service Center (BMSC). She is assigned to the Medication Clinic at the BSMC. (Exhibit #6)
2. The staff structure consists of a RN III overseeing two RN IIs at the Brockton Multi Services Center Clinic. (Testimony of Scully and Exhibit 13)
3. On or about May 9, 2006, the Appellant appealed her current classification title of RN II to the Personnel Administrator, stating that her duties and responsibilities are that of a RN III. (Exhibit #1)
4. On June 20, 2006, Gloria Mazza, a representative of the Respondent Appointing Authority, received a position classification appeal form from the Appellant. (Exhibit #1)

5. Ms. Patricia Scully, Employment Service Manager, also received a copy of the form. (Exhibit #2)
6. Ms. Scully had administrative responsibility for processing the classification appeals on behalf of the Respondent Appointing Authority. (Testimony of Scully)
7. Ms. Scully acknowledged receiving the Appellant's request in a letter to the Appellant dated July 3, 2006. (Exhibit #2 and Testimony of Scully)
8. Thereafter, Ms. Scully in following the DMH's standard operating procedures for classification requests, (1) reviewed an interview guide completed by the Appellant; (2) conducted a face-to-face desk audit interview with the Appellant; (3) reviewed the Appellant's Form 30, job description, and Employee Performance Review System form; (4) compared the Appellant's job description to HRD's job specifications; (5) and consulted with the BMSC Director, Richard Jobin. (Testimony of Scully)
9. Ms. Scully concluded that the Appellant was properly classified as an RN II, for the following reasons:
 - a. The Appellant does not perform the duties listed for the RN III as indicated in the HRD job specifications. She does not oversee nursing care or evaluate nursing care for all shifts. The Medication Clinic operates on a single shift Mondays through Fridays.
 - b. While the Appellant does function as a back-up for BMSC- wide employee health or infection control, by her own account this only

takes up to 1% of her overall time. She does not have primary responsibility for this duty.

- c. Although the Appellant states in her interview guide that she “independently operates the medication clinic,” she is one of two RN IIs assigned to the Medication Clinic. An RN III, Kathy McCarthy, is responsible for overseeing the clinical and administrative activities for the Medication Clinic.
- d. An upgrade of the Appellant’s classification would place her in the same grade as that of her supervisor, RN III McCarthy.

(Testimony of Scully)

10. The Appellant does not independently oversee the nursing care of the Medication Unit. The appellant’s supervisor, RN III Kathy McCarthy is overseer of nursing care at the Medication Unit. (Testimony of Scully)

11. The HRD Classification Specification for the Registered Nurse series lists examples of duties common to all levels in the series. The Specification also lists examples of duties that distinguish the various levels in the series. (Exhibit #11)

12. Under the HRD Classification Specification for the Registered Nurse series, RN IIIs in contrast to RN IIs perform the following duties:

- a. Oversee nursing care for all shifts, ensure that service plans are in place, assign nursing coverage, evaluate nursing care, coordinate client care, coordinate clinical and administrative activities, and provide nursing services on the institution-wide based activities. (Exhibit #11).

- b. Evaluate nursing activities on all shifts by reviewing patient charts, observing nursing care, and visiting patients to insure that nursing care is carried out as directed, and treatment is administered in accordance with physician' instructions;
- c. Coordinate the implementation of clients' individual treatment service plans, as determined by an interdisciplinary team, by conferring with appropriate health care professionals in a hospital or institution; may serve as interdisciplinary team leader;
- d. Coordinate the clinical and administrative activities of clinics by utilizing available resources, including personnel, equipment, etc., in order to make appropriate referrals and initiate necessary follow-up care;
- e. Provide nursing services, such as infection control and employee health, on an institution-wide basis; and
- f. Coordinate the clinical and administrative activities of community-based facilities, such as halfway houses, community residences and intermediate care facilities. (Exhibit #11)

13. The Appellant does not perform nor has the responsibility to perform the RN III's level distinguishing duties, as enumerated in paragraph 11 above, more than fifty per cent of the time. (Testimony and exhibits)

14. The Appellant's supervisor, a RN III, provides oversight of patient care at the facility, for all shifts. However the Appellant only provides oversight for her one program, for only one shift. (Testimony of Scully and Jobin)

15. If the Appellant were reclassified as a RNIII, she would then hold the same title as her supervisor and a potential conflict might arise since the structure of authority or chain of command would then be disrupted. (Testimony of Scully and Jobin)
16. However, the Appellant does perform a variety of valuable duties of nursing at the medication clinic: including without limitation tracking and dispensing medications, preparing client documentation, coordinating with other direct care providers, and functioning as a back-up for BMSC- wide employee health or infection control. The Appellant does not perform the duties of supervision and the level of responsibility that the RN III performs (Testimony and Exhibits #5 and #6)
17. On or about January 25, 2007, the Executive Office of Health and Human Services, Office of Human Resources, denied the Appellant's appeal for reclassification because her duties do not include (1) overseeing nursing care or (2) evaluating nursing care for all shifts and her role does not (3) include primary responsibility for employee health or infection control. (Exhibit # 8)
18. On or about February 12, 2007, the Appellant appealed to HRD. (Exhibit #9)
19. On or about March 14, 2007, HRD denied the Appellant's appeal. (Exhibit #10)

CONCLUSION:

The Appellant has not met her burden of proof by demonstrating through a preponderance of the evidence in the record that she warrants a reclassification to the job title of Registered Nurse III. She has failed to show that she performed the majority of the above-referenced duties of a Registered Nurse III more than 50% of the time. I base this conclusion on

the believable and informed testimonies of the Appointing Authority witnesses and the Appellant herself. Specifically, the Appellant has not demonstrated that she did perform the supervision duties and the higher level of responsibility specified for the RN III title. She and another RN II are under the supervision and authority of Registered Nurse III, Kathy McCarthy. When her current duties are compared to the HRD Classification Specifications of an RN III, she does not satisfy the requirements and therefore can not be classified as an RN III employee.

However, the Appellant does provide valuable nursing services at a high level of competency. She is a valued and reliable employee. She might even be capable of performing the duties and responsibilities of the Registered Nurse III position, if such position were available.

The Brockton Multi Service Center has a revised staff structure that demonstrates a clear line of authority, with one RN III supervising two RN IIs; one of them being the Appellant. This chain of command is important for the order, management and discipline of the clinic. This independent overseeing of the nursing care is an essential and level distinguishing duty of an RN III. It is clear from the testimony and evidence including the staff structure that that the duties incumbent upon that position are being performed by someone else. It is clear that the Appellant was not in a supervisory position at the clinic.

A careful review of the evidence confirms that the Appellant is properly classified as a Registered Nurse II.

WHEREFORE, the Appellant's request for reclassification to the title of RN III is denied and the appeal, filed under Docket No. C-07-192 is *dismissed*.

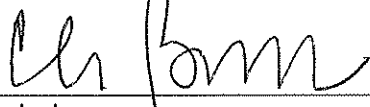
Civil Service Commission,



Daniel M. Henderson,
Commissioner

By vote of the Civil Service Commission (Bowman, Chairman; Henderson, Marquis, Taylor and Stein, Commissioners) on June 19, 2008.

A true record. Attest:



Commissioner

Either party may file a motion for reconsideration within ten days of the receipt of a Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(1), the motion must identify a clerical or mechanical error in the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration shall be deemed a motion for rehearing in accordance with G.L. c. 30A, § 14(1) for the purpose of tolling the time for appeal.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the Commission's order or decision.

Notice sent to:
Maria Lima-Martins - DMH
Patricia Vaulting